IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Arbitration Petition (Ld) No. 635 of 2007

1. Gangadhar Shivram
Shetty and others ..Petitioners

vs.

1. Diwakar Narayan Shetty
and another ..Respondents

Mr.Arif Bookwala i/b Mr.D.F.Sharma for petitioners.

Mr.Bhavesh Parmar for respondent no.1.

Mr.Krishna with Mr.C.D'souza i/b Legal Associates for respondent no.2.

CORAM: S.C.DHARMADHIKARI J.
1st NOVEMBER, 2007

P.C.

1. The Director of Respondent No.2 company who is present in Court has instructed Mr.Krishna, learned Counsel appearing for respondent no.2, to make the following statement.

2. As per the agreement, copy of which is annexed to the affidavit in reply of respondent no.2 filed in this Court on 31st October, 2007, a sum of Rs.50,00,000/- (Rupees fifty lacs) has already been paid. Further sum of Rs.3 crores has also been paid. The total sum of Rs.3,83,00,000/- til date has been paid to the

petitioners and respondent no.1. However, further sums are payable after completion of first slab of rehab building and more particularly as per the schedule which is specified at Exh.2 page 36, to the affidavit of respondent no.2). Mr.Krishna further states that stage from sub-clause (c) has yet to reach and, therefore, further sums are not due and payable. Mr.Krishna further states on instructions that the second respondent is ready and willing to pay all the sums which are due and payable from clause (c) to (k). However, time and stage for payment is not reached as yet. In other words, the first slab of rehab building is yet to be laid. If this is a stage of construction and further construction as per the schedule/exhibit has not taken place, then, Mr.Bookwala on instructions makes a statement that he would not press for any interim measures at this stage. However, he expects that second respondent should intimate to the petitioners and respondent no.1 after completion of the first slab of rehab building and upon such communication being received, within 15 days thereof the petitioner should be granted liberty to move either this Court or the Arbitral Tribunal for appropriate

interim measures.

3. Mr.Krishna states that within 10 days of the construction of the first slab being complete, the second respondent would intimate to the petitioner and the petitioner would then approach either this Court or the Tribunal for appropriate interim measures within two weeks thereof. Thereupon the application for interim measures would be dealt with and decided uninfluenced by disposal of the present petition and on its own merits in accordance with law.

(S.C.DHARMADHIKARI J.)